

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LORY FABIAN)
)
Plaintiff,)
)
vs.) Cause No: 4:12-cv-01112-JAR
)
THE ST. LOUIS RAMS PARTNERSHIP,)
et al.)
Defendant.)

**PLAINTIFF'S MOTION FOR LEAVE TO FILE PLAINTIFF'S FULL RESPONSE TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff by and through the undersigned counsel and submits her Motion for Leave to File the pleadings associated with Plaintiff's Response to Defendant's Motion for Summary Judgment filed on November 1-2, 2013, and in support thereof states as follows:

1. Plaintiff's Response to Defendant's Motion for Summary Judgment was due to be filed on November 1, 2013.
2. On November 1, 2013 Plaintiff filed Plaintiff's Response to Defendant's Motion for Summary Judgment at 11:56 PM CDT by and through the undersigned counsel.
3. Plaintiff by and through the undersigned counsel also attempted to file the pleadings associated with Plaintiff's Response to Defendant's Motion for Summary Judgment, including:
 - a) Plaintiff's Memorandum in Opposition Defendant's Motion for Summary Judgment (filed and registered later as Document Number 57);

- b) Plaintiff's Response to Defendants' Motion for Summary Judgment that was incorrectly named via electronic filing as Motion for Summary Judgment (filed and registered later as Document Number 58 – and which was stricken);
- c) Plaintiff's Response to Defendants' Statement of Uncontroverted Material Facts together with Attachments and Exhibits (1)-(12)-(filed and registered later as Document Number 59);
- d) Plaintiff's Statement of Uncontroverted Material Facts together with Attachments and Exhibits (1)-(12) (filed and registered later as Document Number 60).

4. The above referenced Exhibits (1) – (12) was missing Exhibit Number 6. So there were only 11 Exhibits filed.

5. Apparently the attempt to file the pleadings referenced above in paragraph 3 did not register with the Federal Court electronic filing system on the first attempt.

6. Thereafter, Counsel for Defendants, Brad Winters, sent an email to Plaintiff's counsel inquiring about whether the pleadings associated with the Plaintiff's Response to Defendant's Motion for Summary Judgment had been filed.

7. Plaintiff's Counsel then advised his assistant Sue Kempf to check on the filings and then Sue Kempf returned to the office to re-submit the pleadings via the Federal Court electronic filing procedure and they did register (according to the "Notice of Electronic Filing emails received by Plaintiff's Counsel) as follows:

- a) 3:20 AM CDT on November 2, 2013; Memorandum in Opposition re [47] Motion for Summary Judgment filed by Plaintiff Lory Fabian (filed and registered as Document Number 57);
- b) 3:57 AM CDT on November 2, 2013; Motion for Summary Judgment (filed and registered as Document Number 58 – was incorrectly named and was stricken by the Court);
- c) 4:07 AM CDT on November 2, 2013; Statement of Material Fact re [48] Motion for Summary Judgment Statement of Uncontroverted Material Facts filed by Plaintiff Lory

Fabian together with Attachments, Exhibits (1) – (11)- (filed and registered as Document Number 59);

d) 4:30 AM CDT Statement of Material Facts re [58] Motion for Summary Judgment filed by Plaintiff Lory Fabian together with Attachments, Exhibits (1) – (11)- (filed and registered as Document Number 60).

8. Plaintiff's Counsel seeks leave to file the pleadings referenced above in paragraph 7 in that they were filed as soon as possible after the error was detected and the very short period of time it took to correct the error did not result in any prejudice or harm to the Defendants.

WHEREFORE, Plaintiff prays for an Order of this Court granting Plaintiff's Motion for Leave to file the pleadings associated with Plaintiff's Response to Defendant's Motion for Summary Judgment documents Numbered 57, 58 & 60 (as referenced above in paragraph 7) that were filed on November 2, 2013, and for such other and further relief as this Court may deem just and proper.

KRUSE & O'HANLON, L.L.C.

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2013, the above and foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system or by hand and mailing upon the following:

SHER CORWIN WINTERS LLP
Brad Winters
190 Carondelet Plaza, 11th Floor
St. Louis, Missouri 63105
Attorneys for Defendants

/s/ Edward C. Kruse